

12/5/78

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Memo	Moore & Beekel to Pres. Carter, w/attachments 4 pp., re:NATO weapons	12/4/78	A
Memo	<i>opened per RAC NLC-126-15-16-1-2, 6/29/13</i> Kraft & Miller to Pres. Carter, w/attachments 5 pp., re:recommendations	11/29/78	C

FILE LOCATION

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THE PRESIDENT'S SCHEDULE

Tuesday - December 5, 1978

8:15 Dr. Zbigniew Brzezinski - The Oval Office.

9:00 Budget Appeals Session. (Mr. James McIntyre).
(2 hrs.) The Cabinet Room.

11:00 Mr. Jody Powell - The Oval Office.

11:30 Vice President Walter F. Mondale, Admiral
(30 min.) Stansfield Turner, Dr. Zbigniew Brzezinski
and Mr. Hamilton Jordan - The Oval Office.

1:00 Mr. James McIntyre et al - The Cabinet Room.
(60 min.)

2:10 Drop-By Humphrey Scholarship Program
(10 min.) Kickoff. (Dr. Zbigniew Brzezinski).
Room 450, EOB.

2:30 Senator Paul Hatfield. (Mr. Frank Moore).
(3 min.) The Oval Office.

2:35 Senator James B. Pearson. (Mr. Frank Moore).
(5 min.) The Oval Office.

3:00 Meeting with Senator-elect David Pryor.
(15 min.) (Mr. Jack Watson) - The Oval Office.

5:00 Depart South Grounds via Helicopter en route
Andrews AFB and New York City, New York.

6:30 Attend Abe Beame Fundraiser Dinner (Black Tie).
Metropolitan Opera House.

8:00 Attend Performance of AIDA.

1:35 Return to the South Grounds.
a.m.

J
THE WHITE HOUSE
WASHINGTON

05 Dec 78

Arnie Mille-

The attached was returned in
the President's outbox today.
It is forwarded to you for
appropriate handling.

Rick Hutcheson

Tim Kraft



FOR STAFFING

FOR INFORMATION

FROM PRESIDENT'S OUTBOX

LOG IN/TO PRESIDENT TODAY

IMMEDIATE TURNAROUND

NO DEADLINE

LAST DAY FOR ACTION

ACTION

FYI

ADMIN CONFIDENTIAL

CONFIDENTIAL

SECRET

EYES ONLY

VICE PRESIDENT

JORDAN

EIZENSTAT

KRAFT

LIPSHUTZ

MOORE

POWELL

RAFSHOON

WATSON

WEXLER

BRZEZINSKI

MCINTYRE

SCHULTZE

ADAMS

ANDRUS

BELL

BERGLAND

BLUMENTHAL

BROWN

CALIFANO

HARRIS

KREPS

MARSHALL

SCHLESINGER

STRAUSS

VANCE

ARAGON

BUTLER

H. CARTER

CLOUGH

CRUIKSHANK

FALLOWS

FIRST LADY

GAMMILL

HARDEN

HUTCHESON

LINDER

MARTIN

MOE

PETERSON

PETTIGREW

PRESS

SANDERS

VOORDE

WARREN

WISE

THE WHITE HOUSE
WASHINGTON

November 29, 1978

MEMORANDUM FOR: THE PRESIDENT
FROM: ARNIE J. MILLER *AA*
SUBJECT: Presidential Appointment

I recommend that you appoint the following-named person to be a Member of the National Historical Publications and Records Commission for a term expiring December 26, 1981:

John G. Lorenz, of Maryland,
vice David Hicks, term expired.

You approved this appointment on October 28, 1978.

All necessary checks have been completed.

Since 1965, Mr. Lorenz has been Executive Director of the Association of Research Libraries.

I recommend your approval of the commission for this appointment:

✓ Yes No

J

RÉSUMÉ

LORENZ, JOHN GEORGE

Education:

Librarian, born in New York City, September 28, 1915. B.S. (Library Fellow), College of the City of New York, 1939; B.S. in Library Science, Columbia University, 1940; M.S. in Public Administration, Michigan State University, 1952.

Positions held:

Employed by Queens Borough (N.Y.) Library, then by Schenectady Public Library, 1940-44; chief of the reference division, Grand Rapids Public Library, 1944-46; assistant librarian, Michigan State Library, 1946-56. Employed by U.S. Office of Education, 1957-65, director, division of library services and educational facilities 1964-65; Deputy Librarian of Congress, Library of Congress, 1965-76; executive director, Association of Research Libraries, 1976-.

Memberships held:

Liaison member, commission on science and technical information, Executive Office of the President, 1966-; executive committee, National Book Commission, 1968-; American Library Association Council, 1960-64, 1969-73; a panel member on UNESCO Committee, 1965-70; D.C. Library Associations; Association of State Libraries executive board member, 1962-; International Federation of Library Associations, president of the committee on library statistics, 1964-.

Home: 5629 Newington Road, Bethesda, Maryland 20016

Office: 1527 New Hampshire Avenue, NW, Washington, DC 20036

THE WHITE HOUSE
WASHINGTON

①

December 4, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK MOORE *F.M./BR*

Cong. William A. Steiger (R-Wisconsin) was found
dead at his Washington, D.C. home this morning at
8:30 a.m. As soon as I have further details, I
will advise you.

8

THE WHITE HOUSE
WASHINGTON

05 Dec 78

Jody Powell

This was returned in the President's
outbox today. It is forwarded
to you for your information.

Rick Hutcheson

6122

Judicature

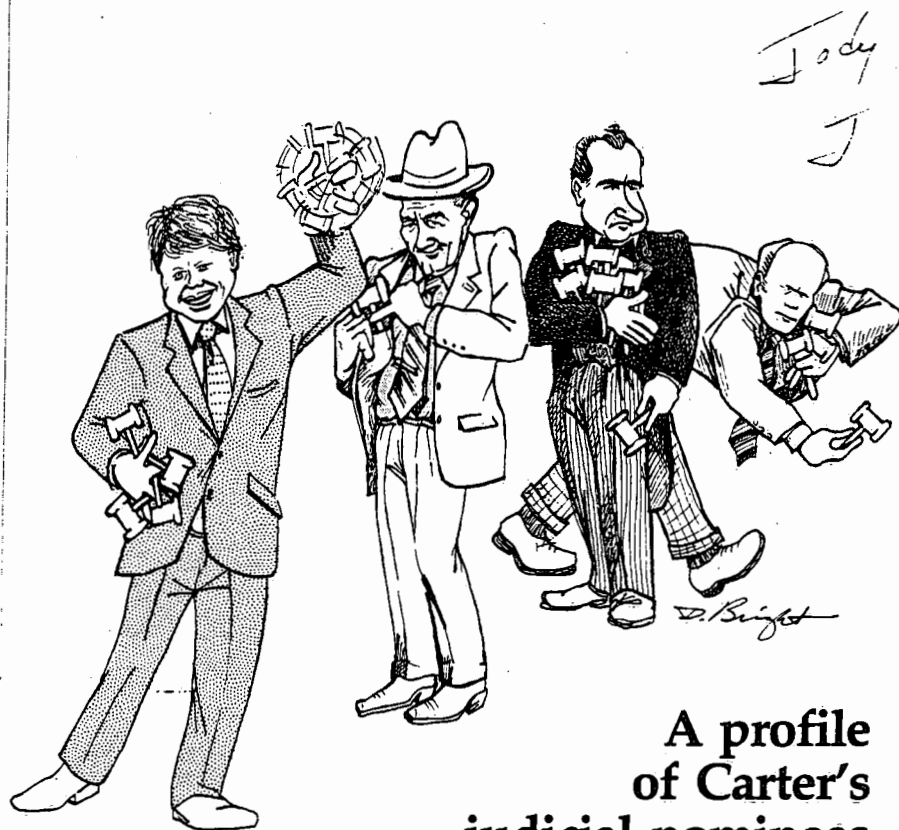
THE JOURNAL OF THE AMERICAN JUDICATURE SOCIETY
NOVEMBER 1978 VOL 62 NO 5

The exclusionary rule *Should the criminal go free because the constable blundered?*

by Malcolm Richard Wilkey

EXIT





A profile of Carter's judicial nominees

*A study finds that so far President Carter has
chosen nominees from a wider variety of backgrounds
than his predecessors did.*

by Sheldon Goldman

Students of the judiciary have long been interested in the types of persons who become judges. They have examined such factors as the appointees' undergraduate and legal training, key career experiences, their occupation when they were chosen for the bench, political party affiliation and activity, and such demographic characteristics as religion, race and sex.¹ Their studies of appointments to the principal lower federal courts have shown commonalities in the backgrounds of judicial appointees, as well as some differences by historical period² and in the appointments of Democratic as opposed to Republican administrations.³

Naturally, then, one would expect researchers to have a professional interest in the backgrounds of President Carter's judicial appointees. However, now that it is almost certain that Congress will create some 152 new lifetime judgeships to be filled by the Carter Administration, such research assumes a new importance. The expected vast increase in the federal bench will provide the President with a rare opportunity to fundamentally reshape the third branch of government.⁴ Thus, any examina-

tion now of judicial backgrounds must also consider how the Administration will respond to this opportunity as well as Carter's likely judicial legacy as compared to that of recent previous administrations.

The purpose of this article is to report the results of research into the backgrounds of President Carter's nominees to the federal district and appeals courts through approximately the first 19 months of his presidency. It also compares Carter's nominees (confirmed and pending) to the appointees of the three previous administrations, and indicates how his appointees might affect the administration of justice. The goal is to achieve a better idea of the nature and impact of his future appointments.

District Court nominees

As of August 27, 1978, President Carter had nominated 45 persons to lifetime positions on the federal district courts⁵ and 12 to the federal courts of appeals. The nominees' backgrounds were investigated through biographical directories, including various editions of *Who's Who*, state legislative handbooks, *The American Bench*, and several editions of Martindale-Hubbell. Newspapers from the nominees' home states were searched for articles containing relevant background information, and the unpublished hearings by the Senate Judiciary Committee were examined. The hearing record routinely includes a nominee's prepared biographical statement and occasionally other background facts contained within the remarks of senators.

Table 1 presents the basic findings for the Carter district court nominees as compared to the appointees of Presidents Johnson (1963-1968), Nixon (1969-1974), and Ford (1974-1976). There are some striking differences as well as similarities.

Experience: First, close to half the Carter nominees to the federal district bench have

1. See, for example, Rodney L. Mott, Spencer D. Albright, and Helen R. Semmerling, *Judicial Personnel*, 68 ANNALS 143 (1933); John R. Schmidhauser, *The Justices of the Supreme Court: A Collective Portrait*, 3 MIDWEST J. OF POL. SCI. 1 (1959); and Bradley C. Canon, *Characteristics and Career Patterns of State Supreme Court Justices*, 45 ST. GOV'T. 34 (1972).

2. See Kermit L. Hall, *101 Men: The Social Composition and Recruitment of the Antebellum Lower Federal Judiciary, 1829-1861*, 7 RUT.-CAM. L. J. 199 (1976) and his *Social Backgrounds and Judicial Recruitment: A Nineteenth Century Perspective on the Lower Federal Judiciary*, 29 W. POL. Q. 243 (1976).

3. See Samuel Lubell, *THE FUTURE OF AMERICAN POLITICS* 83. Garden City, New York: Doubleday, 1956; Sheldon Goldman, *Characteristics of Eisenhower and Kennedy Appointees to the Lower Federal Courts*, 18 W. POL. Q. 755 (1965); Harold W. Chase, *FEDERAL JUDGES: THE APPOINTING PROCESS*. Minneapolis: University of Minnesota Press, 1972; Sheldon Goldman, *Judicial Backgrounds, Recruitment, and the 'Party Variable': The Case of the Johnson and Nixon Appointees to the United States District and Appeals Courts*, ARIZONA ST. L. J. 211 (1974).

4. See, for example, Timothy D. Schellhardt, *Reshaping the Federal Judiciary*, WALL STREET JOURNAL 26, February 23, 1978.

5. This does not include one nomination that was subsequently withdrawn.

Table 1
How Carter's nominees to the DISTRICT COURTS
compare to the appointees of Ford, Nixon and Johnson

Characteristic	Carter nominees	Ford appointees	Nixon appointees	Johnson appointees
Occupation:				
Politics/gov't	4.4%	21.2%	10.7%	21.3
Judiciary	42.2	34.6	28.5	31.1
Large law firm	40.0	34.6	39.7	21.3
Moderate size firm	2.2	5.8	11.7	4.9
Solo or small firm	8.9	3.9	6.7	18.0
Other	2.2	—	2.8	3.3
Undergraduate education:				
Public-supported	46.7	48.1	41.3	38.5
Private (not Ivy)	33.3	34.6	38.5	31.1
Ivy League	17.8	17.3	19.5	16.4
None indicated	2.2	—	0.6	13.9
Law school education:				
Public-supported	37.8	44.2	41.9	40.2
Private (not Ivy)	33.3	38.5	36.9	36.9
Ivy League	28.9	17.3	21.2	21.3
Experience:				
Judicial	46.7	42.3	35.1	34.3
Prosecutorial	33.3	50.0	41.9	45.8
Neither one	33.3	30.8	36.3	33.6
Party:				
Democrat	95.6	21.2	7.8	94.8
Republican	4.4	78.8	92.2	5.2
Party activism:	53.3	50.0	48.6	48.4
Religion:				
Protestant	57.8	73.1	72.1	57.4
Catholic	31.1	17.3	18.9	31.9
Jewish	11.1	9.6	8.9	10.7
Race:				
White	91.1	90.4	97.2	96.7
Black	8.9	5.8	2.8	3.3
Asian-American	—	3.9	—	—
Sex:				
Male	86.7	98.1	99.4	98.4
Female	13.3	1.9	0.6	1.6
TOTAL nominees or appointees	45	52	179	122

previous judicial experience. (Most of them were state court judges at the time of federal nomination). In contrast, about one-third of the Johnson and Nixon appointees (but higher for the Ford appointees) previously held judicial posts. At the same time, only about one in three have prosecutorial experience as compared to between four and five in 10 for the three previous administrations.

It may be that these figures reflect the preferences of Attorney General Griffin Bell who, in light of his service on the U.S. Court of Appeals for the Fifth Circuit, may be particularly sensitive to the need for judicial temperament on the part of those who will occupy the powerful and important office of federal district judge. State judges picked for advancement presumably have already demonstrated their judicial abilities, thereby taking some of the guesswork from the selection process. Judge Bell may also feel that the judiciary ought to be considered a profession in which those at the lower levels who deserve promotion are able to advance.

The use of merit-type nominating commissions by an increasing number of senators may also facilitate this trend by calling attention to highly regarded state court judges. At the same time, prosecutorial experience, while not necessarily downplayed, is apparently not as important a career trait as it was for previous administrations. It will be of interest to see if this holds true for subsequent administrations (assuming it holds true for the remainder of this one).

Minorities: A second striking finding concerns characteristics of the nominees by race and sex. President Carter himself is committed to and in fact language in the new judgeships legislation calls upon him to place more minorities and women on the bench.⁶ The record thus far, when compared to previous administrations, clearly shows a significantly larger proportion of black

Americans (including the first deep South appointment) and women going on the federal district bench. Women constitute over 13 per cent of Carter's nominees—seven times the percentage of the Ford Administration. The Carter record also includes the nominations of two Spanish-surnamed individuals (both state court judges at the time of appointment). Thus, in terms of race and sex, the Carter nominations are an historical first.

Large firms: A third difference is that Carter nominees coming to the bench from private law practice tend to come from large law firms (five or more members) rather than moderate sized firms (three or four members) or small firms (one or two members). Previous findings showed that significantly larger proportions of the appointees of Democratic administrations tended to come from moderate or small law firms, and that, compared to Republican administration appointees, proportionately fewer Democratic appointees came from the large firms.⁷ The Carter nominees, then, show greater similarity to the two previous Republican administrations' appointees than they do to the appointees of the previous Democratic administrations.⁸

Government posts: Still another striking difference is that Carter's nominees have the lowest proportion of those holding political or governmental posts (particularly U.S. Attorney) at the time of appointment. However, at least part of this phenomenon may be explained by the fact that both the President and the Democratic party-affiliated U.S. Attorneys he appointed have not been in office long enough for some of the current U.S. Attorneys to be elevated to the district

7. Sheldon Goldman and Thomas P. Jahnige, *THE FEDERAL COURTS AS A POLITICAL SYSTEM* 73. New York: Harper & Row, 1976 (Second Edition).

8. Previous findings have suggested that the appointees of Democratic presidents tended to come from a lower socio-economic level than appointees of Republican presidents. See, for example, the citations and discussion in Goldman and Jahnige, *supra* n. 7 at 66-74.

It is not at all clear whether this holds true for the Carter nominees given the large proportion of those from large law firms as well as the relatively small proportion of those attending the less expensive state law schools.

6. Although the original language of the House bill was stronger, the final version noting that only 1 per cent of the federal judiciary are women and 4 per cent are black asks that "the President, in selecting individuals for nomination to the federal judgeships created by this act, give due consideration to qualified individuals regardless of race, color, sex, religion, or national origin." As quoted in 36 CONG. Q. 1418 (1978).

court.⁹ Also, as observed earlier, Carter (or Bell) seems to give a higher priority to judicial over prosecutorial experience. Thus, it may be that the flow of U.S. Attorneys to the district bench may eventually resume, but at a slower pace than that of previous administrations.

Similarities with previous appointees

It should be stressed that in other respects the Carter nominees' background profile is consistent with that of previous administrations' appointees. For example, Carter, like his predecessors, selected a large proportion of members of his political party for judicial positions. Typically, at least nine out of 10 positions go to members of the President's party.¹⁰ (In this regard President Ford was not typical when he placed only about eight out of 10 Republicans on the district bench).

About half the Carter nominees, like those of the three previous administrations, had a background of prominent partisan activism. Among the Carter nominees were former directors of their senator's election campaign, former state legislators, and former close associates of key political figures, including a former law partner of Vice-President Walter Mondale. Although it is unlikely that previous political activity and political connections were a prime consideration, it is clear that well qualified candidates with prominent partisan activism or connections usually had the edge over those without it.

To be sure, a few nominees had no record of party activity. For example, according to the *Miami Herald*, Carter nominee William Hoeveler was "never active in politics beyond contributing \$10 to Senator Chiles' campaign."¹¹ Louis H. Pollak, the distinguished legal scholar and dean of the University of Pennsylvania Law School, also was not identified with party type activities.

9. On the aspirations of U.S. Attorneys to federal judgeships, see James Eisenstein, *COUNSEL FOR THE UNITED STATES* 175, 256 n. 28. Baltimore: The Johns Hopkins Press, 1978.

10. See, for example, 20 CONG. Q. 1173 (1962); U.S. Senate, Committee on the Judiciary, *Legislative History of the United States Circuit Courts of Appeals and the Judges Who Served During the Period 1801 Through May 1972*, 92nd Congress, Second Session, (1972), p. 2.

11. *MIAMI HERALD* B-2, April 6, 1977.

And, the two Republican nominees, Robert Sweet and Norma Shapiro, obviously had not worked for the Democratic Party.

Table 1 also points up the similarity in educational background of the Carter nominees to the appointees of the three previous administrations, although a somewhat larger proportion of Carter nominees attended prestigious Ivy League law schools (and proportionately fewer attended public-supported law schools). Another similarity to previous administrations is the relatively small proportion of nominees without either judicial or prosecutorial experience. As we said earlier, however, the Carter nominees tended to have more judicial and less prosecutorial experience.

Finally, the religious affiliation of the Carter nominees was similar to that of the appointees of previous Democratic Presidents.¹² Democrats appoint more Catholics and Jews and fewer Protestants, mirroring to some extent the religious composition of the party itself.

Appeals court nominees

In examining Carter's nominees to the federal courts of appeals (Table 2), we must be cautious in trying to identify trends because there were only 12 Carter nominees. Caution is also advisable because an evaluation of the backgrounds of appeals judges can easily become an evaluation of the merit-type Circuit Judge Nominating Commission established by President Carter to recommend up to five qualified potential nominees for each circuit vacancy.¹³ Nevertheless, some tentative conclusions can be drawn.

First, it is clear that the Carter Administration has nominated black Americans in unprecedented proportions. Three distinguished black jurists were elevated to three different circuits. No women, however, were selected through August 27, 1978.

Second, party affiliation clearly played the

12. See Goldman and Jahnig, *supra* n. 7, at 70.
13. For a discussion of the operations of the nominating commissions and an analysis of those serving as commissioners, see Elliot E. Slotnick, "The Carter Presidency and the U.S. Circuit Judge Nominating Commission" (paper presented at the 1978 Annual Meeting of the American Political Science Association); and the article by Susan Carbon elsewhere in this issue.

Table 2
How Carter's nominees to the COURTS OF APPEALS
compare to the nominees of Ford, Nixon and Johnson

Characteristic	Carter nominees	Ford appointees	Nixon appointees	Johnson appointees
Occupation:				
Politics/government	—	8.3%	4.4%	10.0%
Judiciary	41.7	75.0	53.3	57.5
Large law firm	25.0	16.7	24.4	20.0
Moderate size firm	16.7	—	6.7	2.5
Solo or small firm	—	—	2.2	7.5
Other	16.7	—	8.9	2.5
Undergraduate education:				
Public-supported	41.7	50.0	40.0	32.5
Private (not Ivy)	41.7	41.7	35.6	40.0
Ivy League	16.7	8.3	20.0	17.5
None indicated	—	—	4.4	10.0
Law school education:				
Public-supported	41.7	50.0	37.8	40.0
Private (not Ivy)	33.3	25.0	26.7	32.5
Ivy League	25.0	25.0	35.6	27.5
Experience:				
Judicial	58.3	75.0	57.8	65.0
Prosecutorial	41.7	25.0	46.7	47.5
Neither one	25.0	25.0	17.8	20.0
Party:				
Democrat	91.7	8.3	6.7	95.0
Republican	—	91.7	93.3	5.0
None	8.3	—	—	—
Party activism:	75.0	58.3	60.0	57.5
Religion:				
Protestant	83.3	58.3	75.6	60.0
Catholic	8.3	33.3	15.6	25.0
Jewish	8.3	8.3	8.9	15.0
Race:				
White	66.7	100.0	97.8	95.0
Black	25.0	—	—	5.0
Asian-American	8.3	—	2.2	—
Sex:				
Male	100.0	100.0	100.0	97.5
Female	—	—	—	2.5
TOTAL nominees or appointees	12	12	45	40

Most of the judges Carter has chosen were active in the Democratic Party but they also have fine legal credentials.

same role it has always played. Also, perhaps somewhat incongruously at first blush in light of the merit-type nominating process, those finally chosen by Carter had (with few exceptions) impressive records of previous Democratic Party activity. For example, Hugh Bowens had been a member of the Democratic National Committee from 1963-1966; Proctor Hug had been vice president of the Nevada Young Democrats; James Logan was a Democratic candidate for the U.S. Senate seat in Kansas in 1968; Monroe McKay actively supported the congressional career of his brother, Utah Democratic representative Gunn McKay; Gilbert Merritt was treasurer of the Tennessee Democratic Party; and Robert Vance was chairman of the Alabama State Democratic Party.

However, all these gentlemen and others with party activism in their backgrounds had fine legal credentials: Bowens as a federal district judge; Hug as a former state Deputy Attorney General and lawyer in Reno; Logan as a former U.S. Commissioner and Kansas lawyer; McKay as a former Peace Corps official, Arizona lawyer, and law professor at Brigham Young Law School; Merritt as a former faculty member at Vanderbilt Law School, U.S. Attorney from 1966-1969, and Nashville attorney; and Vance as a Birmingham lawyer. But party activity played some part in the final selec-

tion from the lists of commission-designated qualified persons because (in the words of the Associate Attorney General) "That's the name of the political game."¹⁴

In terms of the proportion with judicial experience, the Carter appeals court nominees did not stand out as the district court nominees did (here the Ford record was distinctive). Similarly, there were no pronounced trends in terms of major occupation at the time of appointment except that two of the 12 nominees were on the faculty of law schools.

The educational background and type of experience similarly show no distinctive trends. The religious breakdown for the Carter nominees as well as for the Ford appointees may be an artifact of the small number of judges involved and the parts of the country where vacancies were filled.

Future judicial selections

On the basis of the findings reported here, we can anticipate the Carter Administration's future judicial selection patterns in terms of certain background characteristics of the nominees. The Carter Administration can be expected to continue to select black Americans and women (and it is likely that women will receive appeals court posts as well) to a significant minority of judgeships.

Judicial experience will probably continue to take precedence over prosecutorial experience, but towards the end of his term or during a possible second term, it is likely that President Carter will be drawing from the ranks of sitting U.S. Attorneys to fill a small number of judgeships. Thus, judicial or prosecutorial experience will likely continue to be found in the backgrounds of a large majority of nominees. Those taken directly from private practice are likely to come from larger, more prestigious firms. In other respects, the nominees are likely to be similar to those of past Democratic presidents, particularly because Democrats with a record of party activity and/or political connections will continue even under "mer-

it selection" to have the inside track, all other things being approximately equal.

These findings, of course, can not objectively reveal the "quality" of the Carter nominees in either absolute terms or in comparison to past administrations. (It is, however, hard to conceive of purely objective determinations of "quality.")¹⁵ They also do not directly inform us of the general political and philosophical views of the nominees or their policy inclinations. Yet it can be argued that our findings have some implications for the administration of justice.

Impact on the judiciary

Political science research has uncovered some relationships of certain attribute variables to judicial decisional tendencies. Most notably, judges with Democratic Party affiliation tend to be more liberal than judges with a Republican Party affiliation, particularly in matters of economic policy.¹⁶ Younger judges have also been found to be more liberal in matters of civil liberties.¹⁷ The Carter-appointed judges, mostly Democrats, will in most instances be younger than those already on the bench from previous administrations.

It is also reasonable to expect that black-American judges will be especially sensitive to disputes that concern allegations of racial discrimination, and that women jurists will

15. If we assume that the ratings given the nominees by the American Bar Association Standing Committee on Federal Judiciary are more or less objective indicators of "quality," we then find the Carter nominees on the whole to be of higher quality than the Ford appointees. Six per cent of the Carter judges received the *Exceptionally Well Qualified* rating as compared to three per cent of the Ford judges. Approximately 62 per cent of the Carter nominees were designated *Well Qualified* as compared to about 47 per cent of the Ford nominees. The remaining judges were given the *Qualified* rating with one exception. One Ford appointee was rated *Not Qualified*.

16. See, for example, Stuart S. Nagel, *Political Party Affiliation and Judges' Decisions*, 55 AM. POL. SCI. REV. 843 (1961); and Sheldon Goldman, *Voting Behavior on the U.S. Courts of Appeals Revisited*, 69 AM. POL. SCI. REV. 491 (1975).

17. See Goldman, *id.*; Charles M. Lamb, *Exploring the Conservatism of Federal Appeals Court Judges*, 51 INDIANA L. J. 257 (1976); and Herbert M. Kritzer, *Political Correlates of the Behavior of Federal District Judges: A "Best Case" Analysis*, 40 J. OF POLITICS 25, 49 (1978).

be equally alert with respect to sexual discrimination. Some studies have also found Catholic and Jewish judges in general (but with exceptions) tend to be more liberal than Protestants.¹⁸ On the whole, then, once President Carter has filled the new judgeships, the philosophical and policy orientation of the federal judiciary is likely to be more liberal than it is today.

The developments reported here have other, more indirect implications for the administration of justice. A judiciary composed of many racial or ethnic strains as well as both sexes and major political parties—in other words a pluralistic judiciary—is more likely to win the confidence of the diverse groupings in a pluralistic society. On the other hand, a judiciary overwhelmingly composed of one race, one social class, and one political orientation would undoubtedly be suspect by at least those not members of that race, class, and political orientation.

Diversity of backgrounds is likely to produce some diversity of views and perspectives, and that should be welcomed, particularly when our courts are being called upon to respond to difficult issues that at best can be dealt with by judicial art and not science. At the same time the tendency of the Carter Administration to look favorably on judicial experience for appointments, particularly at the district court level, may ensure the appointment of perhaps more individuals than might otherwise be appointed with that intangible but necessary quality to be a successful trial judge—judicial temperament.

Responding to the findings

What would be an appropriate response to these developments by those with a professional interest in the judiciary? I should think that the move to select qualified members of minority groups and women would be welcomed for obvious reasons. In general, however, the demographic profile of the Carter judiciary should not be cause for alarm by those of a different political persuasion or those fearful of a new imbalance on the federal courts.

18. See Goldman, *supra* n. 16, and Stuart S. Nagel, *Multiple Correlation of Judicial Backgrounds and Decisions*, 2 FLORIDA ST. U. L. REV. 258 (1974).

Perhaps it is not a conscious determination, but the Carter Administration, like administrations before it, is nonetheless redressing the "imbalance" it found when it first took office. Carter's successor will have the same opportunities, at least in part, to correct what he perceives to be the "imbalances" Carter left behind. This has been the political tradition of the United States and for much of our history the ebb and flow of national politics as it has concerned the judiciary has served us reasonably well.

**It would be desirable
for each panel
to include a judge,
as the Missouri plan
suggests, and one or
two Republicans.**

Nevertheless, one important change has entered the federal judicial selection process. President Carter has become the first President to embrace the concept of merit selection. If merit selection works as it should, the surface "imbalances" of the Carter judiciary may be insignificant in light of what will be recognized as the high quality of judges on the bench.¹⁹ It is therefore, perhaps, merit selection itself that should be the focus of professional attention.

Strengthening merit selection

While it is not my purpose to offer an evaluation or critique of the circuit nominating commission or the senatorial commissions currently in use, perhaps it is possible to make some observations as to how some of them may be strengthened. For one, as diffi-

19. But see Henry R. Glick, *The Promise and the Performance of the Missouri Plan: Judicial Selection in the Fifty States*, 32 U. OF MIASS L. REV. 509 (1978).

cult and subjective as it may be to assess, I think the commissions should try to determine not simply who is "qualified" but who is *best* qualified for a judicial position. In other words, the leading candidates should be ranked.

Also, the breadth of experience represented by the membership of the commissions could be expanded. It would be desirable for commissions to include at least one member of the judiciary, as is typically the practice under the Missouri Plan. At least one or two members of the opposition party should be routinely chosen to serve on these commissions. Quality control is the *raison d'être* of these commissions and it simply strains credibility to expect commissions with like-minded people, no matter how serious and diligent in performing their mission, to be able to do so fairly, absent alternative perspectives and at least some insider expertise.

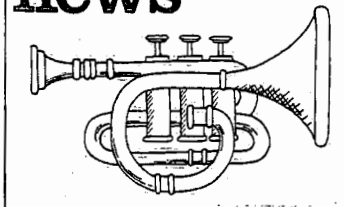
Other changes, of course, may be worthy of consideration,²⁰ and they need not stop at the nomination stage. On the Senate side, the Judiciary Committee should be encouraged to end the blue slip practice that enables a senator from the nominee's state to bloc the nomination for narrow political reasons. Judicial candidates should be considered on their merits. The blue slip procedure should be considered an anachronism like the political enemies lists that were discredited with the Watergate scandal.

The ultimate goal, of course, is to ensure that those appointed to the federal bench are the best qualified, especially since they will be there for life. How Carter might go about filling the 152 new positions can be anticipated from what he has done so far, and it appears there is no real cause for concern. Nevertheless, the unprecedented opportunity before him seems to demand procedures to assist the President in this significant responsibility. A strengthened merit selection process might be the answer. □

20. See also Slotnick, *supra* n. 13, and Peter G. Fish, *Questioning Judicial Candidates: What Can Merit Selection Ask?* 62 JUDICATURE 8 (1978).

SHELDON GOLDMAN is a professor of political science at the University of Massachusetts at Amherst.

news



For the first time, the Senate has passed the Judicial Tenure Act

By a vote of 43 to 31, the Senate on September 7 approved S. 1423, the Judicial Tenure Act. It was the first time in history that a house of Congress had passed a judicial discipline bill, though the supporters of such legislation had introduced similar proposals since 1969.

The measure was sent to the House of Representatives, but no action is expected until next year.

S. 1423, popularly known as the Nunn bill, would establish a procedure in addition to impeachment to deal with charges of misconduct or disability in the federal judiciary. The version approved by the Senate contained no changes from that passed by the Senate Judiciary Committee on June 21 (62 JUDICATURE 147, September 1978).

Essentially, S. 1423 would create a Judicial Conduct and Disability Commission to investigate complaints as they arise, and a Court on Judicial Conduct and Disability with authority to take action against judges found to be unfit. The court could actually reprimand or remove circuit and district judges, but it could only recommend that the House impeach Supreme Court justices.

Supporters of S. 1423 have argued that impeachment is too cumbersome a process for dealing with federal judges accused of misconduct or disability, and that an alternative is necessary. Opponents, on the other hand, maintain that any means other than impeachment would be unconstitutional, that S. 1423 would undermine judicial independence and that the problem of unfit judges is too small to warrant such a drastic solution.

For a complete discussion of the Judicial Tenure Act, see the May 1978 JUDICATURE.

Justice Dept. proposes new limits on the use of designated judges

The Office for Improvements in the Administration of Justice (an office within the Justice Department) has proposed new limits in assigning federal judges for temporary duty on the 11 circuit courts of appeals.

Under present law, any Article III judge other than an active circuit judge may be assigned to sit on the U.S. Courts of Appeals, including district judges, judges from other circuit courts, senior judges, and judges from the special courts. Critics have said that the system makes it more difficult to predict circuit court decisions because attorneys can never be sure what panel of judges will decide their case.

Between 1965 and 1975 (when borrowing was greatest), 47.3 per cent of the cases in the courts of appeals "were decided by a panel including at least one designated judge. In 5.7 per cent of the cases, the panel included two judges sitting by designation," according to Burton Atkins and Justin Green in their study, "Designated Judges: how well do they perform?" (61 JUDICATURE 358, 363 [1978]).

The Office for Improvements proposes an addition to 28 U.S.C. 295 so that no judge would be assigned outside his own circuit "unless an active judge of the court of appeals is absent because of illness, disability, or official business, or a vacancy exists on the court of appeals."

This change would not affect the intracircuit assignment of senior circuit judges, who could sit in their own circuits when they are willing and able.

The office would also amend 28 U.S.C. 292(a) so that the chief judge could no longer assign district judges to the circuit court "whenever the business of that court so requires" but "only if an active judge of the court of appeals is absent because of illness, disability, or official business, or a vacancy exists . . ." or so that the court or division can consist of three judges, as 28 U.S.C. 46(b) requires.

The Office for Improvements said that passage of the Omnibus Judgeship Bill—and reductions in the jurisdiction of the district courts—would make it easier for each circuit to handle its own caseload without help from other circuits. President Carter was expected to begin appointing 35 new appeals judges soon.

THE WHITE HOUSE
WASHINGTON

05 Dec 78

To Secretary Brown

The attached was returned in
the President's outbox today.
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your information.

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THE WHITE HOUSE
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05 Dec 78

Frank Moore
Jim McIntyre

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WASHINGTON

ESDN; NLC-126-15-16-1-7

BY 125 NARA DATE 6/25/78

12/5/78

rick --

please have the cc's
which are sent to brown
and mcintyre forwarded
in sealed envelope.

thanks--susan

~~confid~~

cc Brown +
McIntyre &
Moore

THE WHITE HOUSE
WASHINGTON

CONFIDENTIAL
cc H Brown
J McIntyre
J

December 4, 1978

MEMORANDUM TO: THE PRESIDENT
FROM: FRANK MOORE *Fm*
BOB BECKEL *BB*
SUBJECT: AWACS TO NATO

Jim McIntyre indicated in a memo to you over the weekend that we would undertake a quick Congressional assessment of the proposed U.S. contribution to an AWAC System for NATO. Our soundings indicate little if any political or substantive opposition to the proposal. In fact, increased U.S. participation in NATO is enjoying a good deal of popularity on the Hill which should blunt any serious opposition to the concept. However the cost of the AWACS, and most particularly the U.S. share of the costs, will cause us some problems.

The debate over AWACS for NATO goes back four years. Then Senator Eagleton opposed the proposal on its merits e.g. AWACS could easily be jammed or shot down. The Senate Armed Services Committee, although supportive of the proposal, made it clear that the costs of the system should be equally shared by all NATO members on roughly the same share basis used to determine overall contributions to NATO. The U.S. contribution to NATO is difficult to quantify, but the general sense on the Hill is that the U.S. contribution is about 30 - 33% of the overall NATO budget. If our contribution for AWACS is substantially higher, (42% as indicated in the McIntyre memo) then we can expect opposition in the Senate. This would most likely come as an amendment to the authorization for the System stating that the U.S. share of the cost shall be, for example, no greater than "30%". By appealing to the existing support for an overall strengthening of NATO we may be able to defeat such an amendment, but at this point we can make no guarantees.

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for Preservation Purposes

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J
THE WHITE HOUSE
WASHINGTON

05 Dec 78

Jerry Rafshoon

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the President's outbox today.
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Rick Hutcheson

Paul Harvey

MONDAY, NOVEMBER 27, 1978

Americus Times-Recorder

Inside President Carter

Terry
J

President Carter and I addressed the Future Farmers of America convention in Kansas City on the same day.

I was tired but the President of the United States had to be tired.



I'd had three speech trips, back to back, plus the usual obligations, plus jet fatigue and a threatening cold and I wanted to pull the covers over my head and sleep for a week.

The President

had all those problems plus these:

—The week's general elections had gone against him and his party.

—Scandal in the Small Business Administration; the attorney general wants to pursue criminal prosecution.

—Big Labor's George Meany is throwing verbal brickbats.

—The Teamsters are publicly rejecting his wage-price guideline.

Egypt's President Sadat is saying that the Middle East peace talks were likely to collapse.

Against that backdrop and with Iranian students demonstrating against him outside, President Carter went before 20,000 members of the Future Farmers of America—and let it all hang out.

Never in my observation of

Jimmy Carter, before or during his Presidency, have I ever heard him soliloquize so intimately as he did for 27 memorable minutes on the ninth day of November.

He confided that he has found it hard and lonely at the top.

Other Presidents have said something similar—all Presidents have found the office more thankless than rewarding—but Carter may have a degree of sensitivity and thus vulnerability which is singular.

With no notes and sometimes clutching both fists with emotional intensity, the President recognized that the Camp David peace accords may abort. But he said that we must risk failure and ridicule and scorn—if the alternative is to do nothing.

He remembered life as a lot simpler back on the farm, yet recognized that even in farming one must risk failure to have a chance to succeed.

And he said one of the greatest obstacles to progress is that the fear of failure keeps many from trying.

He talked frankly of his frustration in trying to deal with inflation when special interest groups—including students and farmers, the aged and unemployed and a host of others—are wanting more federal spending.

Almost as though to himself, the President said, "There is no way to

win."

His huge audience was enrapt, utterly attentive. The members of FFA have a reputation for deportment which has made their annual Kansas City convention welcome for 50 years.

And the same audience had been most gracious to the Harveys just an hour previously.

But here was our nation's Chief Executive with his hair down asking for their understanding—and as one they wrapped their arms around him.

He has found in the White House that, as on the farm, there is still no better way to accomplishment than tenacity, knowledge and hard work.

That it is more difficult to be a leader in a time of calm than in a time of crisis—because leaders are naturally popular in a crisis.

Now, he says, when he tries something and succeeds even partially, he becomes identified not with the solution but with the unsolved portion of the problem.

Interesting—in Kansas City the President was reminded that the new Congress will be more conservative than it used to be. The President said that he is more conservative than he used to be.

And to 20,000 people plus one he is also more "one of us" again.

(c) 1978, Los Angeles Times Syndicate.

THE WHITE HOUSE
WASHINGTON

12/4/78

Mr. President:

Do you want to meet with Alfred
Kahn this week? His office called
to set up a meeting.

☒ yes

☐ no

 Phil

Thm Dec 7

11:30 am

THE WHITE HOUSE
WASHINGTON.

05 Dec 78

Zbig Brzezinski
Jerry Rafshoon
Jody Powell
Hamilton Jordan

The attached was returned in
the President's outbox today.
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your information.

Rick Hutcheson

cc 2B-

Rephorn

Body

175

call Rephorn

to pick up

THE WHITE HOUSE
WASHINGTON

December 4, 1978

Jerry
J

MEMORANDUM FOR THE PRESIDENT

FROM: ZBIGNIEW BRZEZINSKI *ZB*
JERRY RAFSHOON *Jerry*

SUBJECT: Human Rights Speech - *Wednesday, 12/6/78, noon*

With the possible exception of peace in the Middle East, no aspect of your foreign policy is more popular or more widely known than human rights.

Although you have frequently commented on human rights, you have never delivered a major, prepared address devoted exclusively to this vital subject. We believe the time has come for you to do so.

The 30th anniversary of the Universal Declaration of Human Rights offers the kind of opportunity that will not recur during your first term. You can use this opportunity to put your views about human rights on the record in a careful, comprehensive way.

We strongly recommend that you deliver a major address on human rights to the audience that will assemble in the East Room on Wednesday. We also recommend that you speak from a prepared text, and that the text be distributed to the media in advance. Along with our guidance, this will alert the press to its importance, and will make it very likely that the New York Times and other newspapers will print it in full -- with major positive impact on an important national elite and media audience. ICA will see that the text receives extensive international distribution. *ok*

This draft is designed to be philosophical, and at the same time strongly committed in tone. It is designed to reaffirm the human rights policy; to outline its successes and its hopes; to show how your personal commitment to it arises from your personal experience; and to place it in the context of both American and world history.

(The sentence about "messiahs" on page 3 is, of course, a response to the Jonestown horror. It is designed to exert moral leadership by getting down to the fundamentals: whatever the cause, the murder of children is unacceptable.)

NOTE: As an alternative to a prepared speech, we have also attached talking points.

A speech would have much more impact. ZB.

HUMAN RIGHTS REMARKS

What I have to say to you today is fundamentally very simple. It is something I have said many times. But it cannot be said too often, or too firmly, or too strongly.

As long as I am President, the Government of the United States ^{*will struggle*} ^{*for enhancement*} ~~stands~~ for human rights. No force on earth can separate us from that commitment.

This week, we commemorate the 30th anniversary of the Universal Declaration of Human Rights. We rededicate ourselves -- in the words of ~~one of the finest persons ever to~~

~~live in this House~~, Eleanor Roosevelt -- to the Universal Declaration as "a common standard of achievement for all peoples of all nations."

The Universal Declaration -- and the Human Rights conventions that derive from it -- do not describe the world as it is. But these documents are ^{very} ~~enormously~~ important nonetheless. They are ^{set a beacon - guide to} ~~a beacon~~ for a future of personal security, political freedom and social justice.

For millions of ^{people} ~~men and women~~ across the globe, that beacon is still distant -- a glimmer of light on a dark horizon of deprivation and repression. The reports of Amnesty International, the International Commission of Jurists, the International League for Human Rights and many other non-governmental human rights organizations amply document the practices and conditions that destroy the lives and spirit of countless human beings.

Political killings, torture, arbitrary and prolonged

detention without charge or trial -- these are the cruelest and ugliest of human rights violations.

Of all human rights, the most basic is to be free of arbitrary violence -- whether that violence comes from governments, from terrorists, from criminals, or from self-appointed messiahs operating under the cover of politics or religion.

But governments -- because their power is so much greater than that of any individual -- have a special responsibility. The first duty of a government is to protect its citizens. When government itself becomes the perpetrator of arbitrary violence, it forfeits its legitimacy.

There are other violations of the body and the spirit, equally destructive of human life. Hunger, disease, and poverty are enemies of human ^{potential} ~~possibility~~ as relentless as any repressive government.

~~I firmly believe that~~ ^{The} American people want the

actions of their government both to reduce human suffering and to increase human freedom.

That is why -- with the help and encouragement of many of you in this room -- I have sought to rekindle the beacon of human rights in American foreign policy. Over the last two years, we have tried to ^{express} ~~bring~~ these human concerns ^{as} ~~to the way~~ our diplomats practice their craft and ^{as} ~~to the way~~ our nation fulfills its international obligations.

I repeat: ~~this Administration will continue to do whatever it can, wherever it can to advance the cause of human rights.~~

We will speak out when individual rights are violated in other lands. The Universal Declaration means that no nation can draw the cloak of sovereignty over torture, disappearances, officially-sanctioned bigotry, or the destruction of freedom within its own borders.

The message that is being delivered by all our

representatives abroad -- whether they are from the Department of State, of Commerce, of Agriculture, or of Defense -- is that human rights count in the character of our relations with other countries.

In distributing the scarce resources of our foreign assistance programs, we will demonstrate that our deepest affinities are with nations which commit themselves to a democratic path to development.

Toward
~~In the case of~~ regimes which persist in wholesale violations of human rights, we will not hesitate to convey our outrage -- nor will we pretend that our relations are unaffected.

In the coming year, I hope that Congress will take a step that has been overdue for a generation: the ratification of the Convention on the Prevention and Punishment of the Crime of Genocide.

The Genocide Convention was also adopted by the

United Nations General Assembly thirty years ago this week -- one day before the adoption of the Universal Declaration.

It was the world's affirmation that the lesson of the Holocaust would never be forgotten. But unhappily, genocide is not peculiar to any one historical era -- as recent events in Equatorial Guinea, Uganda, and Cambodia vividly confirm.

Eighty-three other nations have ratified the Genocide Convention. The United States -- despite the support of every President since 1948 -- has not. In international meetings at the UN and elsewhere, we are often asked why. We do not have an acceptable answer.

I urge the United States Senate to observe this anniversary in the only appropriate way: by ratifying the Genocide Convention at the earliest possible date.

This action must be the first step toward the ratification of other human rights instruments, including those I signed a year ago. Many of the religious and human rights

groups represented here have undertaken a campaign of public education on behalf of these covenants. I commend your efforts.

Refugees are the living, homeless casualties of our world's failure to live by the principles of peace and human rights. To help them is a simple human duty. As Americans -- as a people made up largely of the descendants of refugees -- we feel that duty with special keenness.

Our country will do its utmost to ease the plight of stranded refugees from Indochina and Lebanon and of released political prisoners from Cuba and elsewhere. I hope we will always stand ready to welcome our fair share of those who flee their homelands because of racial, religious, or political oppression.

~~I believe that~~ ^The effectiveness of our human rights policy is now an established fact. It has contributed to an atmosphere of change that has encouraged progress in many

places. In some countries, political prisoners have been released. In others, the brutality of repression has been lessened. In still others, there is movement toward democratic institutions or the rule of law.

To those who doubt our dedication, I say: Ask the victims. Ask the exiles. Ask the governments which practice repression. Whether in Cambodia and Chile, in Uganda or ^{Africa} South ~~America~~, in Nicaragua or Ethiopia or the Soviet Union, governments know that we care -- and not a single one of those who is actually taking risks or suffering for human rights has asked us to desist. From the prisons, the camps, the enforced exiles, we receive one message -- speak up, persevere, let the voice of freedom be heard!

I am proud that our nation ~~again~~ stands for more than military power and economic might. It stands for ideals that have their reflection in the aspirations of peasants in Latin America, workers in Eastern Europe, students in Africa and farmers in Asia.

We live in a difficult, complicated world -- a world in which peace is literally a matter of survival. Our foreign policy must take this into account. Often, a choice that moves us toward one of our goals moves us farther away from another. Seldom do circumstances permit us to take actions that are wholly satisfactory to ^{everyone.} ~~ourselves.~~

But I want to stress ^{again} ~~today~~ that human rights are not peripheral to the foreign policy of the United States. Our human rights policy is not a decoration. It is not something we have adopted to polish up our image abroad, or to put a fresh coat of moral paint on the discredited policies of the past.

Our pursuit of human rights is part of a broad effort to use our great power and influence in the service of creating a better world -- a world in which human beings can live in peace, in freedom, and with their basic needs adequately met.

Human rights is the soul of our foreign policy -- because human rights is the very soul of our sense of nationhood.

For the most part, other nations are held together by common racial or ethnic ancestry, by a common creed or religion, or by an attachment to the land that goes back many centuries in time. Some nations are held together by the force of a tyrannical government.

We are different, and I believe we are *more fortunate.* ~~luckier.~~

As a people, we come from every country and corner of the globe. We are of many religions and many creeds. We are of every race, every color, every ethnic and cultural background. We are right to be proud of these things, and of the richness they lend to the texture of our national life. But they are not the things that unite us as a single people.

What unites us -- what makes us Americans -- is a common belief in the idea of a free society, and a common

devotion to the liberties enshrined in our Constitution.

That belief and that devotion are the sources of our sense of national community. Uniquely, ours is a nation founded on an idea of human rights. From our own history, we know how powerful that idea can be.

Next week marks another important human rights anniversary -- Bill of Rights Day. Our nation was "conceived in liberty," in Lincoln's words. But it has taken nearly two centuries for that liberty to approach maturity.

For most of the first half of our history, black Americans were denied even the most basic human rights. For most of the first two-thirds, women were excluded from the political process. Even freedom of speech has been threatened periodically throughout our history. Only in the last ten or twelve years have we achieved what Father Theodore Hesburgh has called "the legal abandonment of more than three centuries of apartheid." And the struggle for full human rights for all Americans -- black, brown and white, male and female,

rich and poor -- is far from over.

To me, as to many of you, these are not abstract matters. In the rural Georgia country where I grew up, the majority of my fellow citizens were denied many basic rights -- the right to vote, the right to speak freely without fear, the right to equal treatment under the law. I saw at first hand the effects of a system of deprivation of rights. I saw the courage of those who resisted that system. And, finally, I saw the cleansing energies that were released when my region walked out of darkness and into what Hubert Humphrey, in the year of the adoption of the Universal Declaration, called "the bright sunshine of human rights."

The American Bill of Rights is 187 years old. And the struggle to make it a reality has occupied every one of those 187 years.

The Universal Declaration of Human Rights is only thirty years old. In the perspective of history, the idea of

human rights has only just been broached.

I do not draw this comparison because I want to counsel patience. I draw it because I want to urge steadfastness and commitment.

One hundred eighty-seven years ago, as far as most Americans were concerned, the Bill of Rights was a bill of promises. There was no guarantee that those promises would be realized.

We did not realize them by waiting for history to take its inevitable course. We realized them because we struggled. We realized them because ^{many} ~~we~~ sacrificed. We realized them because we persevered.

For millions around the world today, the Universal Declaration of Human Rights is still only a declaration of hope.

Like all of you, I want that hope to be fulfilled.

The struggle to fulfill it will last longer than the lifetimes of any of us; indeed, it will last as long as the lifetime of humanity itself.

But we must persevere.

And we must begin by ensuring that this country of ours, which we love so much, is always ^{in the forefront} ~~on the side~~ of those who are struggling for the great hope, the great dream of human rights.

Thank you.

#

TALKING POINTS

1. The Universal Declaration of Human Rights is a beacon for a future of personal security, political freedom, and social justice.

- We are honored today by the presence of three men who were instrumental in its adoption: Roger Baldwin, Benjamin Cohen, and Philip Jessup.
- For millions, that beacon is still dim.
- But with your help, we have rekindled it in the foreign policy of the U.S.

2. This Administration will continue to do whatever it can, wherever it can to advance the cause of human rights.

- We will speak out when rights are violated, and we will speak with one voice.
- In our foreign assistance programs, we will demonstrate our affinity with nations that choose a democratic path to development.
- When regimes persist in wholesale violations, we will not hesitate to convey our outrage, nor will we pretend that our relations are unaffected.
- As we have done during the past two years, we will raise human rights concerns with the highest officials of every country with which we have dealings, formal or informal.
- We will do our utmost to ease the plight of refugees, including those from Cuba, Indochina, Lebanon, and elsewhere.


3. In the coming year, Congress can take a step that has been due for 30 years by ratifying the Convention on the Prevention and Punishment of the Crime of Genocide.

- As recent events in Equatorial Guinea, Uganda, and Cambodia show, genocide is not peculiar to any one era.

- 83 other nations have ratified it and every President since 1948 has supported it.
- This would be the first step toward ratification of other human rights covenants and conventions.

4. Human rights is not peripheral to our foreign policy. It is not a decoration. It is the very soul of our foreign policy.

- Our sense of nationhood is based on a dedication to human rights as enshrined in the Declaration of Independence and the Constitution.
- The promises of the Bill of Rights have approached fulfillment only after 187 years of struggle here at home. The Universal Declaration is only 30 years old. The struggle to redeem the hopes it expresses will be even longer and more difficult, but we must persevere.



THE WHITE HOUSE
WASHINGTON

05 Dec 78

Tim Kraft
Arnie Miller

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Rick Hutcheson

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BROWN

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STRAUSS

VANCE

ARAGON

BUTLER

H. CARTER

CLOUGH

CRUIKSHANK

FALLOWS

FIRST LADY

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HARDEN

HUTCHESON

LINDER

MARTIN

MOE

PETERSON

PETTIGREW

PRESS

SANDERS

VOORDE

WARREN

WISE

THE WHITE HOUSE
WASHINGTON

November 30, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: TIM KRAFT *TK*
ARNIE MILLER *AAA*

SUBJECT: National Museum Services Board

The Museum Services Act creates a Board consisting of fifteen members who are appointed by the President and confirmed by the Senate. The original members who were appointed by you last year have staggered terms and three of them have expired.

Douglas Dillon and Neil Harris would like to be reappointed, but Joan Mondale does not because of other commitments. Douglas Dillon is Chairman of the Board of the Metropolitan Museum of Art and former Secretary of the Treasury. Neil Harris is Professor of History at the University of Chicago and is quite active as a lecturer and consultant. Secretary Califano has recommended that both be reappointed.

To replace Mrs. Mondale, Secretary Califano has recommended Mrs. Emily Rauh Pulitzer of St. Louis. Mrs. Pulitzer has had experience at the Cincinnati Art Museum, the Fogg and the Museum of Modern Art in New York. She is the wife of Joseph Pulitzer, Publisher of the St. Louis Post Dispatch. She has also been recommended by Senator Eagleton.

RECOMMENDATION:

Nominate Douglas Dillon and Neil Harris to the Museum Services Board for full five year terms to be reappointments.

☒ approve

☐ disapprove

[Handwritten signature]

Nominate Emily Pulitzer as a new member of the Museum
Services Board.

✓ approve

 disapprove

✓

DILLON, DOUGLAS

President, the Metropolitan Museum of Art
5th Avenue at 82nd Street
New York, New York 10028
Telephone: 212/879-5500

Douglas Dillon is President of the Metropolitan Museum of Art. He has been active in the affairs of the Museum since 1951, when he was first elected Trustee and served on various committees until he was elected President on January 1, 1970. Mr. Dillon is Managing Director of Dillon Read and Company, Inc. and is Chairman of the U.S. and Foreign Securities Corporation. He is a Trustee of the Council of Foreign Relations.

Mr. Dillon is a graduate of Harvard University and holds twelve honorary degrees. In 1953, he was named Ambassador to France, where he served until his appointment as Deputy Under Secretary of State in 1957. From 1959 to 1961, he was The Under Secretary of State and, in 1961, became Secretary of the Treasury. He remained in that post until 1965.

Mr. Dillon served as President of the Board of Overseers of Harvard College, as Chairman of the Brookings Institute, and as Chairman of the Rockefeller Foundation. He also served as a member of the boards of the Chase Manhattan Bank, New York, and the American Telephone and Telegraph Company.

March 1976

CURRICULUM VITAE: NEIL HARRIS

Birth: January 26, 1938

Education:

B.A., Columbia University, 1958
B.A., Cambridge (with first class honors), 1960
Ph.D., Harvard University, 1965

Teaching Experience:

Instructor, Harvard University, 1965-1968
Assistant Professor, Harvard University, 1968-1969
Associate Professor, University of Chicago, 1969-1972
Professor, University of Chicago, 1972-
Visiting Professor of History, Yale University, 1974

Lectures:

Deerfield, Massachusetts; Winterthur Museum, Delaware;
Yale University; Metropolitan Museum of Art; Radcliffe
Women's Institute; Inter-American University Foundation
Oberlin College; Johns Hopkins University; University
of Michigan; University of Wisconsin; Roosevelt
University; Cornell University; Indiana Historical Soc

Awards:

Brainerd Memorial Prize, Elsborg History Medal,
Kellett Fellowship, Columbia University; Woodrow Wilson
and Prize Fellowships, Harvard University; elected an
honorary scholar, Clare College, Cambridge, 1960;
Bowdoin Prize, Harvard University, 1965; Fellowship,
American Council of Learned Societies, 1972-1973;
Boucher Lecturer, Johns Hopkins University; William
B. Cardozo Lecturer, Yale University :

Professional Activities:

Consultant, Educational Services, Inc., 1965-1967
Consultant, Houghton-Mifflin, Inc., 1969-1970
Member, Editorial Board, American Quarterly, 1970-197
Member, Program Committee, Organization of American
Historians, 1970
Member, Beveridge Prize Committee, American Historical
Association, 1972-1974; Chairman, 1974-1975
Consultant, National Endowment for the Humanities, 19
Member, Board of University Publications, University
of Chicago, 1973-
Consultant, Children's Television Network, New York C
Participant at meetings of the Organization of
American Historians; American Historical
Association, various years, 1969-1974
Member, Editorial Board, Frederick Law Olmsted Papers
1973-
Member, Editorial Board, Archives of American Art
Journal, 1974-
Member, advisory board, Dunlap Society
Member, National Board of Consultants, National
Endowment for the Humanities

EMILY S. RAUH PULITZER (MRS. JOSEPH PULITZER, JR.)

Home: 4903 Pershing Place
St. Louis, Missouri 63108

Born: Cincinnati, Ohio, July 23, 1933.

Education: A.B., Bryn Mawr College, 1955.
Student, Ecole du Louvre, Paris France
1955-56; M.A., Harvard, 1963.

Experience: Member of the staff of the Cincinnati
Art Museum, 1956-57; assistant curator
of drawings, Fogg Art Museum, Harvard,
1957-64, assistant to the director,
1962-63; curator, City Art Museum, St.
Louis, 1964-73.

Member of the painting and sculpture
committee, Museum of Modern Art, 1975;
Chairman, visual arts committee,
Missouri Arts Council, 1976 to present;
Vice President, Mark Roth Foundation,
1976 to present. Member of the
American Federation of Arts (Director,
1976 to present).

NATIONAL MUSEUM SERVICES BOARD

Institute of Museum Services
Department of Health, Education,
and Welfare

AUTHORITY: P.L. 94-462, Title II, Sec. 204, October 8, 1976

METHOD: Nominated to the Senate and see below

MEMBERS: TWENTY as follows:

Chairman of the National Endowment for the Arts
Chairman of the National Endowment for the Humanities
Secretary of the Smithsonian Institution
Director of the National Science Foundation
Commissioner of Education

The above shall be nonvoting members
and

FIFTEEN appointed by the President, by and with the advice and consent of the Senate. Such members shall be broadly representative of various museums, including museums relating to science, history, technology, art, zoos, and botanical gardens, of the curatorial, educational, and cultural resources of the United States, and of the general public.

CHAIRMAN: Designated by the President from among the appointed members.

Continued

NATIONAL MUSEUM SERVICES BOARD

Institute of Museum Services
Department of Health, Education,
and Welfare

TERM:

FIVE YEARS, except in the case of initial members, three shall serve for terms of five years, three for terms of four years, three for terms of three years, three for terms of two years, and three for terms of one year.

Any member appointed to fill a vacancy shall serve only such portion of a term as shall not have expired at the time of such appointment. (NOT HOLDOVERS)

Any appointed member who has been a member of the Board for more than seven consecutive years shall thereafter be ineligible for reappointment during the three-year period following the expiration of the last such consecutive year.

SALARY:

Members who are not in the regular full-time employ of the United States shall receive compensation at a rate to be fixed by the President not to exceed GS-18, including traveltime and while serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence.

PURPOSE:

Encourage and assist museums in their educational role and ease the financial burden borne by museums as a result of their increasing use by the public.

THE WHITE HOUSE

WASHINGTON

December 4, 1978

C
/

MEMORANDUM FOR THE PRESIDENT

FROM: EDWARD SANDERS *ES*
SUBJECT: U.S. Aid to Israel - FY 80.

I understand from the State Department that you will be considering an appeal from Secretary Vance tomorrow to retain the current package of aid to Israel. I hope you will accept the Secretary's appeal and override OMB's recommendation that the proportion of foreign military sales grants and economic grants be reduced.

Despite our budgetary considerations, I think OMB's recommendation would be counterproductive at this time for several reasons:

1. Israel has real and substantial economic difficulties, which will be increased when a peace treaty is signed. Cutting the proportion of grants for Israel could harm the negotiating process because it would erode Israeli trust for the United States at a time when such trust is necessary to promote Israeli flexibility.
2. The message we should be sending to the Israelis, is that if they can muster the courage to make necessary concessions the United States can be counted on, within reason, to help Israel meet the financial burden.
3. We should defer decisions as to Israel's economic needs until we have completed review of the Israeli request for aid in connection with the Egyptian treaty. There is no need to enter into a difficult argument with the Israelis twice this year.
4. OMB's recommendation could cause an uproar in Congress and could very well be the subject of an attempted override.

ES:ss

3:00 PM

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THE WHITE HOUSE
WASHINGTON

December 4, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: JACK WATSON *Jack*
SUBJECT: Meeting with Senator-elect Pryor on
Rice Issues (December 5, 3:00-3:15,
Oval Office)

You, Frank Moore, Bob Bergland and I are scheduled to meet with Senator-elect David Pryor tomorrow for 15 minutes (3:00-3:15) in the Oval Office to discuss problems facing the nation's major rice producing states. An earlier request by Governors Pryor, Briscoe, Edwards and Finch for a mid-September meeting with you was denied because of your exceptionally heavy schedule at the time, and because it did not seem necessary to have such a meeting until after the election.

Senator-elect Pryor has requested this new meeting for the purpose of reviewing the current rice situation and presenting the views of the rice producing states. He does not expect any decisions to be made or announced at the meeting.

Excerpting from materials provided by USDA, selected background information and talking points are provided below.

Current Rice Outlook

- o A record U. S. and world crop, a continued high level of trade, and declining prices are expected for 1978-79.
- o In response to strong prevailing prices in the spring of 1978, U. S. producers expanded 1978 plantings by a third. Acreage planted in excess of allotments occurred mainly in Arkansas and Mississippi. (Producers who have planted nonallotment acreage will not receive deficiency payments on that portion of their production.)
- o With utilization expected to show little increase, 1978-79 ending stocks are expected to nearly double and season average prices to decline to

\$7.00-\$7.50 per cwt (compared to \$9.43 in 1977-78 and \$7.02 in 1976-77).

Farmer-Owned Reserve Program

- o Given the current outlook, USDA opened the farmer-owned rice reserve program for the 1978 crop in order to isolate excess supplies and temper price declines. The reserve has been limited to eight million cwt, but could be increased (as Senator-elect Pryor may advocate).

P.L. 480

- o 1978-79 exports are expected to reach 608,000 metric tons (compared to 570,000 metric tons in 1977-78). Due to good worldwide production this year, additional P.L. 480 rice exports are not likely.
- o Early deliveries under the FY 1979 P.L. program have been less than expected, primarily because Indonesian storage is presently filled to capacity (as a result of domestic producers in that country selling a much higher than usual percentage of this year's crop) and because other potential recipient countries may prefer to purchase wheat rather than rice (given the prevailing price ratio between wheat and rice).

Prospects for 1979-1980

- o Even without an acreage adjustment program, the decline in 1978's rice crops prices and more favorable prices for alternative crops (especially soybeans) signal some reduction in rice planting. Plantings in 1979 could range from 2.5 (the "ideal") to 2.8 million acres. If Plantings should reach 2.7 or 2.8 million acres, record supplies would result.
- o Assuming no set-aside and normal weather, a season average price of \$7.00 per cwt is projected as most likely for 1979 (slightly above the loan level of \$6.78 per cwt).
- o USDA is now in the process of analyzing options for the 1979 rice program. A Notice of Proposed Rulemaking will be published soon in the Federal Register for public comment.

Bob Bergland will be on hand to answer technical questions.

THE WHITE HOUSE
WASHINGTON

December 4, 1978

MEETING WITH SENATOR PAUL HATFIELD

Tuesday, December 5, 1978
2:30 p.m. (5 minutes)
Oval Office

From: Frank Moore *F.M./BR*

I. PURPOSE

To say good-bye to you.

II. BACKGROUND, PARTICIPANTS & PRESS PLAN

- A. Background: Senator Hatfield, who was defeated in the Montana Democratic primary, would like to personally say good-bye to you.

It is possible that Senator Hatfield will mention to you his interest in a Federal District Judgeship in Montana. As you know, before coming to the Senate, he was a state judge for many years and wrote many of Montana's judicial reform laws. Senator Melcher and Senator-elect Baucus are very supportive and have been working with Judge Bell and his staff and me and my staff on this matter, consistent with the dictates of the executive order on merit selection.

Wife: Dorothy

- B. Participants: The President
Senator Paul Hatfield (D-Montana)
Frank Moore

- C. Press Plan: White House Photo.

III. TALKING POINTS

Routine courtesies.

2:35 PM

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THE WHITE HOUSE
WASHINGTON

December 5, 1978

MEETING WITH SENATOR JAMES B. PEARSON

Tuesday, December 5, 1978
2:35 p.m. (5 minutes)
Oval Office

From: Frank Moore *F.M./BR*

I. PURPOSE

To say good-bye to you.

II. BACKGROUND, PARTICIPANTS & PRESS PLAN

- A. Background: Senator Pearson would like to personally say good-bye to you. As you know, Senator Pearson plans to return to Kansas.

While in the Senate he was extremely supportive of the Administration, particularly on all major foreign policy initiatives and the natural gas conference report. You will probably want to recognize and express appreciation for his efforts.

Wife: Martha

- B. Participants: The President
Senator Jim Pearson (R-Kansas)
Frank Moore

- C. Press Plan: White House Photo.

III. TALKING POINTS

Routine courtesies

Abe Beame - Stands Tall

Fed Kabin - \$2500 12/5/

'76 Demo Convention 78

Support - 214 in crisis

Nothing for himself

Carey
Beame → Ga. \$180.1 + bus fare

Great City - Great Mayor

abe beame fundraiser 12/5/78
new york city, n.y.


THE WHITE HOUSE

WASHINGTON

December 4, 1978

INFORMATION

MEMORANDUM FOR: THE PRESIDENT

FROM: ZBIGNIEW BRZEZINSKI 

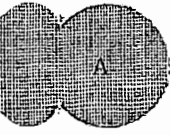
SUBJECT: White House Conference on
Humphrey Scholarship Program,
Tuesday, December 5th

With the help of the speechwriters, we have prepared talking points for your use in welcoming the university presidents to the White House Conference on the Humphrey North-South Scholarship Program (Tab A).

At Tab B, is the program for the Conference, and at Tab C is a list of the presidents and representatives of most of the universities which will be associated with the program. As you can see from the schedule, John Reinhardt will be introducing you. I will speak briefly on the political dimension of the North-South Dialogue and Henry Owen will be speaking on the economic content of the North-South Dialogue.

Muriel Humphrey will be attending the entire ceremony, and we have invited other congressmen and senators who might be interested to attend as well. It's not clear at this time whether any will attend. We will inform you if we learn otherwise.

There will be open press coverage of your remarks.





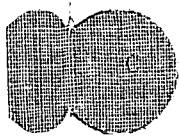
PROGRAM
FOR THE
WHITE HOUSE CONFERENCE ON THE
HUBERT H. HUMPHREY NORTH-SOUTH SCHOLARSHIP PROGRAM

Washington, D.C. December 5, 1978

CHAIRMAN: Honorable John E. Reinhardt, Director
International Communication Agency

WORKING CHAIRMAN: Honorable Alice S. Ilchman,
Associate Director for Educational
and Cultural Affairs
International Communication Agency

2:00 p.m.	The Chairman introduces the President of the United States
2:00 - 2:15	The President welcomes the conferees
2:15 - 2:30	The Chairman outlines the concept of the new program
2:30 - 2:50	Remarks by Honorable Zbigniew Brzezinski, Assistant to the President for National Security Affairs, and Honorable Henry Owen, Special Representative of the President for Economic Summits
2:50 - 3:00	Questions and Answers on the presentation by Messrs. Brzezinski and Owen
3:00 - 5:00	Under the guidance of the Working Chairman, discussion of the program and its implementation including funding, selection, placement, supervision, insurance, dependents, degrees, etc. and the summer workshop
5:00	Reception at the White House



ADAMS, John
Dean, Humphrey Institute
University of Minnesota

BERNHARD, John T.
President
Western Michigan University

BRANDT, Warren W.
President
Southern Illinois University

BUDIG, Gene A.
President
West Virginia University

CANTLON, John E.
Vice President
Michigan State University

CHAMBERLAIN, A. Raymond
President
Colorado State University

CHEEK, James E.
President
Howard University
Washington, D.C.

COOKE, W. Donald
Vice President of Research
Cornell University

DENNARD, Cleveland L.
President
Atlanta University

EDWARDS, Robert C.
President
Clemson University

ENARSON, Harold L.
President
Ohio State University

FOSTER, L. L.
President
Tuskegee Institute

GEORGE, Melvin D.
Vice President for Academic
Affairs
University of Missouri - Columbia

GOLDSCHMIDT, Peter R.
Special Assistant to President
for Governmental Relations
University of California

HEALY, Father Timothy
President
Georgetown University

KEENAN, Edward L.
Dean, Graduate School of
Arts and Sciences
Harvard University

MAGRATH, C. Peter
President
University of Minnesota

MARTIN, David
Vice President, Academic Affairs
SUNY/Albany

MATSUDA, Fujio
President
University of Hawaii

McCOMAS, James D.
President
Mississippi State University

MCFADDEN, Hugh
President
University of Wyoming

MEYERSON, Martin
President
University of Pennsylvania

MILLER, Jarvis E.
President
Texas A&M University

MONROE, Elise S.
Assistant
Institute of International Education
New York, New York

NORTON, Norman
Vice President for Instructional
Affairs and Dean of Faculties
Ball State University

OSWALD, John W.
President
Pennsylvania State University

PHILPOTT, Harry M.
President
Auburn University

PYLE, Cassandra
President, National Association
for Foreign Student Affairs
c/o Institute of International
Education
New York, New York

ROSKENS, Ronald W.
President
University of Nebraska - Lincoln

SHANE, Charles
Associate Dean
Fletcher School of Law and Diplomacy

SILBER, John R.
President
Boston University

SINGLETARY, Otis
President
University of Kentucky

SLIGER, Bernard F.
President
Florida State University

SPARKS, David S.
Vice President for Graduate
Studies and Research
University of Maryland

STOKES, Donald E.
Dean, Woodrow Wilson School
of Public and International
Affairs
Princeton University

THOMAS, Joab L.
Chancellor
North Carolina State University

WINGFIELD, Clyde J.
Executive Vice President for
Academic Affairs and Provost
University of Miami

WILSON, David A.
Executive Assistant to President
University of California

WOODIN, Martin
President
Louisiana State University

YOUNG, Edwin
President
University of Wisconsin

ZUBAY, Eli A.
Vice President for Academic Affairs
Georgia State University

DONSKER, Monroe
Chairman
Board of Foreign Scholarships

OLUM, Louis T.
Advisory Commission on
International Communication

PELTASON, Jack
President
American Council on Education

COHEN, Saul
President
Queen's College
City University of New York

THE WHITE HOUSE

WASHINGTON

December 2, 1978

MEMORANDUM TO THE PRESIDENT

FROM: BERNIE ARONSON, ~~JERRY DOOLITTLE~~ *BA* *JAD*

SUBJECT: Humphrey Scholarship Talking Points,
December 5, 1978

1. I am glad that Senator Muriel Humphrey could be with us today, to honor her husband and our friend with a scholarship program that reflects his concern for the people of the Third World and his lifelong efforts to promote better understanding among the nations of the world.

2. Hubert Humphrey believed deeply in the potential of all human beings and he fought all his life to strengthen education because he saw it as perhaps the world's best hope for greater understanding and, through understanding, shared progress, increased freedom and peace among the nations of the world.

3. Hubert once said: "The challenge before us is not only to educate the children of America, but to help bring education to every corner of the world. For if it is true that freedom cannot live with ignorance, between the two, the choice is clear".

4. Hubert Humphrey was one of the earliest voices for a program like the Peace Corps which has involved so many of

our finest young people in helping the people of the developing nations. The Hubert H. Humphrey North-South Scholarship Program is a logical next step; it will bring to our country hundreds of the brightest young men and women from the developing world. As our Peace Corps volunteers enriched us with the knowledge they acquired of other cultures, so the Humphrey North-South Scholars will take back to their countries a fuller appreciation of our society. And they will leave behind with us a deeper understanding of their own countries and of themselves.

5. We reorganized the cultural division of the State Department and the U.S. Information Agency into the International Communication Agency to foster this sort of exchange. We want ICA to serve as a bridge to share ideas, culture, and progress between America and other nations in the world.

6. The first suggestion of U.S. scholarships for talented students of modest means in the developing world came from Omar Torrijos during the Panama Canal Treaty negotiations. My staff passed his idea on to me, I discussed it with President Carlos Andres Perez of Venezuela -- and now we hope to bring the first round of students here in September.

7. The program is very important to me because the challenge of world politics today and in the future is to forge a new

era of cooperation and shared progress and mutual respect between the industrialized world and its developing neighbors. Our aim is cooperation in place of confrontation -- an aim we achieved with Panama and we are striving to achieve with the rest of the Third World as well. I am convinced that the Hubert Humphrey Scholarship Program will be an important force for greater understanding and cooperation between our nation and the developing world.

8. Hubert Humphrey fought for the disadvantaged all his life. He would have been especially pleased to see that this program which bears his name will be available to those potential leaders too poor to afford a graduate year of study abroad.

9. Rabbi Hillel once said a single candle can light a thousand more without diminishing itself. This scholarship program, in Hubert Humphrey's name, will bring the light of education to thousands of students around the world. He could ask for no more fitting memorial.

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